

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

J. DANIEL LUGOSCH, III; ROBERT L.
UNGERER; JOHN A. BERSANI; EDWARD A.
KELLOGG; JOHN C. CHARTERS; PETER C.
STEINGRABER, RICHARD K. ASKIN; and
WILLIAM TAPELLA,

Plaintiffs,

-against-

00-cv-0784 (NAM/RFT)

ROBERT J. CONGEL, individually and as
General Partner of Woodchuck Hill Associates,
Riesling Associates, Madeira Associates and Moselle
Associates; PYRAMID COMPANY OF
ONONDAGA; EKLECCO L.L.C.,
WOODCHUCK HILL ASSOCIATES;
RIESLING ASSOCIATES; MADEIRA
ASSOCIATES; MOSELLE ASSOCIATES;
JAMES A. TUOZZOLO; ROBERT
BRVENIK; MARC A. MALFITANO; and
SCOTT R. CONGEL,

Defendants.

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, Plaintiffs J. Daniel Lugosch, III, Robert L. Ungerer, John A. Bersani, Edward A. Kellogg, John C. Charters, Peter C. Steingraber, Richard K. Askin, and William Tapella, and Defendants Robert J. Congel, Pyramid Company of Onondaga, EklecCo L.L.C., Woodchuck Hill Associates, Riesling Associates, Madeira Associates, Moselle Associates, James A. Tuozzolo, and Scott Congel, being the only parties to this action, hereby stipulate and agree that this action, including all claims and counterclaims, shall be dismissed with prejudice, without costs, attorneys' fees, disbursements and expenses and each party waiving its right to appeal.

Respectfully submitted,

J. DANIEL LUGOSCH, III; ROBERT L. UNGERER; JOHN A. BERSANI; EDWARD A. KELLOGG; JOHN C. CHARTERS; PETER C. STEINGRABER, RICHARD K. ASKIN; and WILLIAM TAPELLA

By their attorneys,

/s/ Michael I. Endler
Michael I. Endler
Jeffrey Shelly
BOIES, SCHILLER & FLEXNER LLP
10 North Pearl Street
4th Floor
Albany, NY 12207
(518) 434-0600

ROBERT J. CONGEL, WOODCHUCK HILL ASSOCIATES, RIESLING ASSOCIATES, MADEIRA ASSOCIATES, MOSELLE ASSOCIATES, JAMES A. TUOZZOLO

By their attorneys,

/s/ Anthony S. Fiotto
Paul F. Ware, Jr. PC (BBO No. 516240)
Anthony S. Fiotto (BBO No. 558089)
Christopher D. Moore (BBO No. 630651)
GOODWIN PROCTER LLP
Exchange Place
Boston, MA 02109
(617) 570-1000

SCOTT R. CONGEL

By his attorney:

/s/ James Gillespie
James Gillespie
Kirkland & Ellis
655 Fifteenth St., N.W., Suite 1200
Washington, D.C. 20005
(202) 879-5000

PYRAMID COMPANY OF ONONDAGA AND EKLECCO, LLC

By their attorney:

/s/ Eric T. Dadd
Eric T. Dadd
Dadd & Nelson
11 Exchange Street
P.O. Box 238
Attica, NY 14011
(585) 591-1100

Dated: February 1, 2007